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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,729	12/26/2000	Lawrence E. Williams III	23088 0276046	4226

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PILLSBURY WINTHROP SHAW PITTMAN LLP  
2475 HANOVER STREET  
PALO ALTO, CA 94304-1114

EXAMINER
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ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/748,729

Applicant(s)

WILLIAMS, LAWRENCE E.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 34-40 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 34-40 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/9/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Notice of Appeal***

In view of the appeal brief filed on 11 April 2005, PROSECUTION IS HEREBY REOPENED. New grounds for rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claims 34-40 are pending.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 34-36, 38-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy III et al. (US Patent 6,535,743)/*Kennedy*.

Kennedy discloses methods of providing information of a customer using a telematics device embedded in a customer vehicle, comprising:

**accessing** a telematics device embedded in the customer vehicle. See, for example, Kennedy, at least Col. 9, lines 12-48.

**establishing a communication link** between the telematics device and a virtual garage, wherein the virtual garage comprises at least one server on the Internet and wherein the virtual garage stores the information of the customer. See, for example, Kennedy, at least Col. 9, lines 12-48.

**retrieving information** of a customer from the virtual garage using the telematics device; See, for example, at least Col. 9, lines 12-48. See also at least Col. 15, lines 7-11, requesting information of a customer from a virtual garage using a telematics device. See, for example, at least Col. 5, lines 7-18, Col. 11, line 21-Col. 12, line 26.

**transmitting information** of a customer to a Public Service Answering Point, wherein the information is transmitted from the telematics device embedded in the customer vehicle to the Public Service Answering point. See, for example, Kennedy, Col. 13, lines 1-19. Kennedy discusses the use of 911 numbers. As noted previously, 911 is an emergency reporting system whereby a caller can dial a common number for all emergency services. The caller will be answered at a common answering location (public service answering point - PSAP)<sup>1</sup> which figures the nature of the emergency and dispatches the proper response teams.

Kennedy **does not** specifically disclose that the information being **retrieved** is emergency contact information. Kennedy **does not** specifically disclose what specific

information is provided during an emergency associated with the customer vehicle.

Kennedy discloses using a telematics device during emergencies such as car crashes, as in Col. 11, lines 3-21.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to transfer any type of data and information, including emergency contact information during an emergency associated with a customer vehicle. One of ordinary skill in the art at the time the invention was made would have been motivated to transfer any type of data and information, including emergency contact information during an emergency associated with a customer vehicle for the obvious reason that during an emergency, it is important to be able to reach appropriate parties, such as roadside assistance to get help.

***As per claim 35***, Kennedy discloses use of the Internet. See, for example, Col. 7, line 47-Col. 8, line 3.

***As per claim 36*** Kennedy discloses that communication link may be though wireless connections. See, for example, at least Col. 7, line 66-Col. 8, line 3. See also at least Col. 8, line 55-Col. 9, line 5.

***As per claim 38***, Kennedy discloses requesting an emergency 911 service to the Public Service Answering Point using the telematics device. Col.5, line 47-59.

***As per claim 39***, Kennedy discloses that the emergency may comprise a collision. See references to car crash, at least Col. 11, lines 4-21.

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<sup>1</sup> PSAP is a generic term for the person or group of people who answer 911 emergency phone calls. Newton's Telecommunications Dictionary.

**Claim 37** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy III et al. (US Patent 6,535,743)/*Kennedy in view of InfoGation*.

**As per claim 37**, Kennedy **does not** specifically disclose that emergency contact information is retrieved from a virtual garage to a telematics device using an FM subcarrier network. As noted previously, without applicant traverse, information may be transmitted from TSP's to telematics devices via FM subcarrier networks. For example, **InfoGation** discloses that CUE's FM subcarrier network reaches over 80% of the North American population and interstate highway system. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Kennedy with **InfoGation** and disclose transmitting information from a portal to a customer device over an FM subcarrier network. One of ordinary skill in the art at the time the invention was made would have been *motivated* to combine Kennedy with **InfoGation** and disclose transmitting information from a portal to a customer device over an FM subcarrier network for the obvious reason that FM subcarrier networks provide a simple, efficient and proven way to reach a large number of customer devices.

**Claim 40** is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy III et al. (US Patent 6,535,743)/*Kennedy in view of InfoGation*.

**As per claim 40**, Kennedy does not specifically disclose that a Public Service Answering Point may comprise an emergency medical service vehicle. Suman discloses transmitting medical information, stored in an on-board database, from a vehicle's telematics device to an emergency vehicle. See, for example, at least Col. 13, lines 15-54. It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to combine Kennedy and Suman to disclose transmitting medical information from an onboard database to a PSAP/emergency medical service vehicle. One of ordinary skill in the art at the time the invention was made would have been motivated to combine Kennedy and Suman to disclose transmitting medical information from an onboard database to a PSAP/emergency medical service vehicle for the obvious reason that it is important that emergency medical personnel have the latest medical information of a patient during a roadside emergency. A patient's virtual garage may exclude recent updates to a person's medical records, such a recently diagnosed diabetic condition. Medical personnel may alter their treatment according to such updates.

### ***Response to Arguments***

Applicant's arguments filed 11 April 2005 have been fully considered but they are not persuasive.

#### **Emergency contact information**

Again, Applicant argues that his claims are directed to transmitting and retrieving ***emergency contact information*** and expressly excludes medical information.

At the onset, the Examiner notes that this limitation is not found in the claim language. In addition, it has been found "That a person skilled in the art might realize from reading the disclosure that such a particular definition (as now argued) is a possible definition is not a sufficient indication to that person that that particular definition is part of Applicant's invention as originally filed. Claims yet unpatented are to

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be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application. In re Prater, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969).

The term ***emergency contact information*** will be given its broadest reasonable interpretation to include any and all information that may be transmitted under an emergency. An emergency is an unforeseen combination of circumstances or the resulting state that calls for immediate action.<sup>2</sup> Applicant has not persuasively demonstrated that the Examiner has applied an unreasonable interpretation of the recited feature, or that the interpretation is inconsistent with the specification, or that applied interpretation is repugnant to one of ordinary skill in the art.

**Retrieving v. receiving / transfer / upload / download / transmit, etc.**

Applicant admits that Kennedy permits a car to transmit, transfer, download, upload and receive information, to and from both a virtual garage as well as to and from a service center such as a 911 number.

Yet applicant argues that Kennedy does not permit a user to ***retrieve*** information, as in appeal brief, page 7, lines 13-25, emphasis added.

...[the references] nowhere teach that the emergency contact information of the customer is ***retrieved*** from a virtual garage by the telematics device. Instead, the Final Office Action relies on Kennedy at columns 9 and 10 as anticipatory of ***receiving*** customer information from a virtual garage. Applicant concedes that the cited passage discusses ***transfer of data, including uploading and downloading certain data and that these activities may certainly include receiving customer information.*** However, Kennedy does not teach ***retrieving*** emergency contact information as recited in claim 34. Rather than the act of ***retrieving*** (i.e. getting or bringing back) of emergency contact information, Kennedy discloses the transfer of data including configuration, menu structures and diagnostic information (see, e.g., Merriam-Webster Online Dictionary, <http://www.m-w.com/cgi-bin/dictionary?book=Dictionary&va=retrieve>, visited 4/5/05). Within the context of claim

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<sup>2</sup> Definition of *emergency*, MERRIAM WEBSTER'S Collegiate Dictionary.



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34, the reference fails because there is no suggestion of **retrieving** emergency contact information for transmittal by a telematics device during an emergency associated with a vehicle.

Kennedy also shows that a user may send and receive information to a service center as well a service center, as in Col 9, lines 48-65. These actions take place when a user, via a user interface, presses a button, as in Fig. 2. The menu data, as Fig. 2, may include phone button 212, emergency assistance button 214, roadside assistance button 216, information services button 218, as in Col. 13, lines 51-65.

Again, it has been found "That a person skilled in the art might realize from reading the disclosure that such a particular definition (as now argued) is a possible definition is not a sufficient indication to that person that that particular definition is part of Applicant's invention as originally filed. Claims yet unpatented are to be given the broadest reasonable interpretation consistent with the specification during the examination of a patent application. In re Prater, 415 F.2d 1393, 162 USPQ 541 (CCPA 1969). To **retrieve** is to obtain a specific requested item or set of data by locating it and returning it.<sup>3</sup> Consistent with applicant's use of the terms receive and retrieve, the two terms will be interpreted as synonyms. Similarly, transmit, transfer, downloading and uploading will be interpreted to refer to retrieving / receiving data from one node to another.

### **Conclusion**

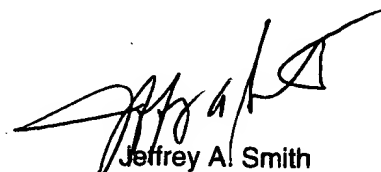
Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J2  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
20 June 2005

  
Jeffrey A. Smith  
Primary Examiner  
Acting SPE  
AU 3625

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<sup>3</sup> Definition of **retrieve**, MICROSOFT PRESS Computer Dictionary.